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ALEXANDER L. STEVAS,
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No. 82-268

In The

Supreme Court of the United States

October Term, 1982

FIRST PENNSYLVANIA BANK, N.A.,
Appellant,

vs.

LANCASTER COUNTY TAX CLAIM BUREAU,
Appellee,

-and-

DELLA BECKER,
Appellee.

On Appeal from the Supreme Court of the Commonwealth of Pennsylvania

MOTION TO DISMISS

HEYWOOD ERIC BECKER
The Old York Road
New Hope, Pennsylvania 18939

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QUESTIONS PRESENTED

1. Whether appellant's federal question was properly raised or expressly passed on by the Supreme Court of Pennsylvania?
2. Whether the identical case is still pending in the United States District Court for the Eastern District of Pennsylvania?
3. Whether the federal question of appellant is substantial?
4. Whether the Decree of the Supreme Court of Pennsylvania rests on an adequate non-federal basis?

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

TABLE OF AUTHORITIES iv

STATUTES AND PROCEDURAL RULES INVOLVED .. 1

MOTION TO DISMISS 5

STATEMENT OF THE CASE 5

ARGUMENT 10

1. Appellant's Federal Question was not Properly Raised or Expressly Passed on by the Supreme Court of Pennsylvania 10

2. The Identical Case is Still Pending in the United States District Court for the Eastern District of Pennsylvania 12

3. The Federal Question is not Substantial 13

4. The Decree of the Supreme Court of Pennsylvania Rests on an Adequate Non-Federal Basis 17

CONCLUSION 21

TABLE OF CONTENTS (Continued)

APPENDIX — Page

First Pennsylvania Bank's complaint in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 75-1858, paragraphs 1 and 20 ..... A1

Lancaster County Docket Entries A3

Appellee's Petition and Motion to Quash Appeal in the Supreme Court of Pennsylvania A8

Judge Newcomer's Memorandum and Order in First Pennsylvania Bank N.A. v. Counties Investment Corporation, United States District Court for the Eastern District of Pennsylvania, Civil Action No. 76-3401, (Unpublished, 1978) A16

Grant of Extension of Time A20

TABLE OF AUTHORITIES

Cases: **Page**

Appeal of John McShain Charities, Inc.,
48 Pa. Commonwealth Ct. 144,
409 A. 2d 923 (1978) 19

Bachtel v. Wilson,
204 U.S. 36 (1907) 21

Boddie v. Connecticut,
401 U.S. 371 (1979) 14

First Pennsylvania Bank v. Counties Invest. Corp.,
No. 76-3401, E.D. Pa. (1978) 15,A16

Greene v. Lindsay,
102 S. Ct. 1874 (1982) 16

Grimes v. Grimes,
216 Pa. Superior Ct. 346,
264 A. 2d 410 (1970) 19

Hamilton v. United States,
309 F. Supp. 468 (S.D.N.Y., 1969) 14

Irrerra v. S.E.P.T.A.,
231 Pa. Superior Ct. 508,
331 A. 2d 705 (1974) 11

Kokosh v. F.S. & L.A.,
118 Pittsb. Leg. J. 406 (1970) 19

McIlwain v. McIlwain,
27 Som. L.J. 352 (1971) 10

Mullane v. Central Hanover Bank & Trust Co.,
339 U.S. 306 (1950) 13

Newman v. Gates, 204 U.S. 89 (1907) 12

TABLE OF AUTHORITIES (Continued)

Cases (continued): **Page**

Pennsylvania Company v. Scott,
346 Pa. 13, 29 A. 2d 328 (1942) 18

Phillips v. Commissioners,
238 U.S 583 (1931) 14

Speece v. Lebanon Parking Authority,
65 D. & C. 2d 408 (1974) 11

Stembridge v. State of Georgia,
343 U.S. 541 (1952) 21

Superior Mining Company Property Tax Sale,
359 Pa. 357, 59 A. 2d 301 (1948) 11

The Mary, 9 Cranch. 126, 144 16

Union Trust Company of New Castle v. Totino,
353 Pa. 145, 44 A. 2d 556 (1945) 18

U.S.A. v. Brosnan, 363 U.S. 237 (1960) 14

Western Flour Co. v. Alosi,
216 Pa. Superior Ct. 341,
264 A. 2d 413 (1970) 18

Statutes:

The Deficiency Judgment Act of
July 26, 1941, P.L. 400,
12 P.S. Sec. 2621.1 *et seq*..... 1,2,7,8,9,17,18,19,20

Procedural Rules:

Pa. R.C.P. 235 3,7,8,10,11,12

Supreme Court Rule 28.4.(c) 4,8,11

STATUTES AND PROCEDURAL RULES INVOLVED

DEFICIENCY JUDGMENT ACT

The Pennsylvania Deficiency Judgment Act of July 16, 1941, P.L. 400, 12 P.S. Sec. 2621.1 *et seq.* provides in the pertinent parts:

> "The title is as follows: 'An Act to protect the debtors, obligors or guarantors of debts for which judgments are entered or may be entered, and owners of real property affected thereby, and others indirectly liable for the payment thereof, by prescribing the method of fixing the fair market value of such property sold on execution, and limiting the amount collectible thereafter on such judgments.'"

Sec. 2621.1 Plaintiff to petition court to fix value of real property sold

> "Whenever any real property has heretofore been or is hereafter sold, directly or indirectly, to the plaintiff in execution proceedings and the price for which such property has been sold was or is not sufficient to satisfy the amount of the judgment, interest and costs and the plaintiff seeks to collect the balance due on said judgment, interest and costs, the plaintiff or plaintiffs shall petition the court having jurisdiction to fix the fair market value of the real property sold as aforesaid. Said petition shall be signed and sworn to by the plaintiff or plaintiffs." 1941, July 16, P.L. 400 Sec. 1.

Sec. 2621.7 Time for filing petition

"The plaintiff or plaintiffs shall file all petitions in accordance with section one and section two of this act not later than six months after the sale of any real property. In the event no petition is filed within such period, the debtor, obligor, guarantor and any other person liable directly or indirectly to the plaintiff or plaintiffs for the payment of the debt shall be released and discharged of such liability to the plaintiff or plaintiffs." 1941, July 16, P.L. 400, Sec. 7.

Sec. 2621.7a Proceedings when petition not filed; marking judgment satisfied

"If the plaintiff or plaintiffs shall fail to present such petition to fix the fair market value of the real property sold within six months after the sale of such real property as provided by this act, the debtor, obligor, guarantor or any other person liable directly or indirectly to the plaintiffs or plaintiffs for the payment of the debt, or any person or persons interested in any real estate which would, except for the provisions of this act, be bound by said judgment, may present his or their petition to the court having jurisdiction, setting forth the fact of said sale, and that no petition has been filed within six months after said sale to fix the fair market value of the property sold, whereupon the court, upon proof of service of at least ten days' notice of said petition on the plaintiff or plaintiffs, or their attorney in said action, and being satisfied of such facts, shall direct the prothonotary to mark said judgment satisfied, released and discharged." 1941, July 16, P.L. 400, Sec. 7.1, added 1943, May 27, P.L. 681, Sec. 1.

The Pennsylvania Deficiency Judgment Act of July 16, 1941, P.L. 400, 12 P.S. Sec. 2621.1 *et seq.*, was substantially reenacted in the Pennsylvania Judiciary and Judicial Procedure Act of July 9, 1976, P.L. 588, 42 Pa. C.S.A., Sec 8101 *et seq.*

Pa. R.C.P. 235

Pennsylvania Rule of Civil Procedure 235 provides as follows:

> **Rule 235. Notice to Attorney General. Constitutionality of Statute**
>
> "In any proceeding in a court subject to these rules in which an Act of Assembly is alleged to be unconstitutional and the Commonwealth is not a party, the party raising the question of constitutionality shall promptly give notice thereof by registered mail to the Attorney General of Pennsylvania together with a copy of the pleading or other portion of the record raising the issue and shall file proof of the giving of the notice. The Attorney General may intervene as a party or may be heard without the necessity of intervention. The court in its discretion may stay the proceedings pending the giving of the notice and a reasonable opportunity to the Attorney General to respond thereto. If the circumstances of the case require the court may proceed without prior notice in which event notice shall be given as soon as possible; or the court may proceed without waiting action by the Attorney General in response to a notice." Adopted Nov. 30, 1964. Eff. June 1, 1965.

SUPREME COURT RULE 28.4.(c)

Revised Supreme Court Rule 28.4.(c) provides as follows:

> "In any proceeding in this Court wherein the constitutionality of any statute of a State is drawn in question, and the State or any agency, officer or employee thereof is not a party, the initial pleading, motion or paper in this Court shall recite that 28 U.S.C. Sec. 2403(b) may be applicable and shall be served upon the Attorney General of the State."

MOTION TO DISMISS APPEAL

Pursuant to Rule 16.1.(b) of the Revised Rules of this Court, Della Becker, appellee, moves that this appeal be dismissed.

STATEMENT OF THE CASE

First Pennsylvania Bank appeals from the Decree of the Supreme Court of Pennsylvania, which dismissed its appeal as having been improvidently granted. Appellant challenges the constitutionality of the Pennsylvania Real Estate Sale Tax Law which divested its mortgage from a tract of land purchased by Della Becker at a Lancaster County tax sale.

In 1973, Bernard DiSabatino, a commercial builder, borrowed $1,100,000. from First Pennsylvania Bank and gave, as security for the loan, five $1,100,000. mortgages, each covering a separate tract in four counties in Pennsylvania, all securing the identical note. At the mortgage settlement, the St. Paul Title Insurance Company attorney, as agent for First Pennsylvania Bank, was to pay the delinquent real estate taxes.

Appellant believed, as a consequence, that its mortgage would be a senior lien. In error, the attorney paid the taxes due on another tract of land. The delinquent taxes on DiSabatino's tract went unpaid, becoming a senior lien superior to appellant's mortgage.

In 1974, after giving full statutory notice, the Lancaster County Tax Claim Bureau sold the subject tract to Della Becker at a public auction. As the tax lien was senior to appellant's junior mortgage, the tax sale divested its junior mortgage by operation of a provision of the Real Estate Tax Sale Law, 72 P.S. Sec. 5860.609. Neither Lancaster County nor the Commonwealth had any knowledge or notice of appellant's mortgage, as there was no duty imposed on government to keep track of liens held by private parties, such as First Pennsylvania Bank. In general, Pennsylvania law does not require senior lien holders to notify junior lien holders prior to a judicial sale divesting the junior lien, whether it be a tax sale or a Sheriff's sale on execution or foreclosure.

Thereafter, Bernard DiSabatino defaulted on his loan from First Pennsylvania Bank. Appellant then foreclosed its other three mortgages on the other three tracts in the other three Pennsylvania counties, all securing the one and the same debt. However, appellant neglected to file deficiency judgment petitions after each of the three Sheriff's sales. As a consequence of appellant's neglect, operation of the Deficiency Judgment Act caused its mortgage to be discharged.

Thus, appellant's mortgage was initially divested by operation of the Real Estate Tax Sale Law, but subsequently discharged by operation of the Deficiency Judgment Act. As its mortgage was discharged, appellant no longer had any interest remaining in Della Becker's tract of land.

Appellant joined the Lancaster County Tax Claim Bureau and Della Becker, but not the Commonwealth of Pennsylvania, when it brought suit in the Lancaster County Court of Common Pleas. However, appellant failed to give notice to the Pennsylvania Attorney General as required by Pa. R.C.P. 235. After losing at

trial, at the court sitting en banc, and at the Commonwealth Court of Appeals, appellant appealed to the Supreme Court of Pennsylvania. Whereupon, Della Becker brought her Petition and Motion To Quash Appeal on the ground that operation of the Deficiency Judgment Act had paid and discharged appellant's mortgage, and thus, the bank lacked standing to appeal. The Supreme Court of Pennsylvania dismissed appellant's appeal as having been improvidently granted.

Moreover, appellant's constitutional challenge itself had not been properly raised or expressly passed on by the Supreme Court of Pennsylvania, because appellant had failed to give notice to the Pennsylvania Attorney General as required by Pa. R.C.P. 235 when it initially filed suit. Appellant never rectified its error in the state appellate courts. Appellant has, however, underscored and amplified its error by its present failure to comply with Rule 28.4.(c) of this Court.

Appellant's constitutional challenge to the Pennsylvania Real Estate Tax Sale Law was deemed abandoned for failure to comply with Pa. R.C.P. 235. In

addition, the Supreme Court of Pennsylvania might well have dismissed appellant's appeal on the adequate non-federal basis of lack of standing, or mootness, as its mortgage had been discharged by the Deficiency Judgment Act, and any claim under such a satisfied mortgage was moot.

ARGUMENT

1. APPELLANT'S FEDERAL QUESTION WAS NOT PROPERLY RAISED OR EXPRESSLY PASSED ON BY THE SUPREME COURT OF PENNSYLVANIA.

Appellant filed suit in equity in the Lancaster County Court of Common Pleas against the appellees herein, but chose not to join the Commonwealth of Pennsylvania. The complaint challenged the constitutionality of the Pennsylvania Real Estate Tax Sale Law, Act of July 7, 1947, P.L. 1368, No. 542, Act I, Sec. 101, *et seq.*, as amended, 72 P.S. Sec. 5860.101 *et seq.* In such proceedings, Pennsylvania Rule of Civil Procedure 235 required appellant to give notice to the Pennsylvania Attorney General and file proof of same. The Lancaster County docket entries contain no such proof.

In Pennsylvania, the notice requirement of Pa. R.C.P. 235 is mandatory, *McIlwain* v. *McIlwain*, 27 Somerset 352, (1971) and the proper way to challenge the constitutionality of a Pennsylvania statute is to

plead the issue and give notice to the Attorney General as required by Pa. R.C.P. 235. Where plaintiff fails to do so the issue of constitutionality is abandoned or waived. *Irrera v. S.E.P.T.A.*, 231 Pa. Superior Ct. 508, 331 A. 2d. 705 (1974), *Superior Mining Company Property Tax Sale*, 359 Pa. 357, 59 A. 2d 301 (1948). When plaintiff fails to comply with Pa. R.C.P. 235, Pennsylvania courts will not hear an argument that a Pennsylvania statute is unconstitutional. *Speece v. Lebanon Parking Authority*, 65 D. & C. 2d 408 (1974).

Pa. R.C.P. 235 is a sound procedural rule, for the validity of the Commonwealth's laws should not be placed exclusively in the hands of private litigants. Constitutional questions are more than matters of private concern between parties; they are matters of the public interest. As to the reasonableness of Pa. R.C.P. 235, this Court has the similar Revised Rule 28.4.(c), and a similar provision was enacted by the Congress with respect to proceedings before three-judge courts involving the constitutionality of a federal statute: Act of June 25, 1948, 28 USCS Sec. 2284.

If the Supreme Court of Pennsylvania dismissed appellant's appeal sua sponte for failure to comply with Pa. R.C.P. 235, the case stands as though no appeal had been presented from the judgment rendered by the trial court. *Newman v. Gates*, 204 U.S. 89 (1907).

As a basic rule, federal claims must be presented to state courts in accord with state procedure. It would appear that the Supreme Court of Pennsylvania recognized appellant's failure to have properly raised its federal question by dismissing its appeal as improvidently granted.

2. THE IDENTICAL CASE IS STILL PENDING IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

As well as filing in the Lancaster County Court of Common Pleas, appellant simultaneously filed its complaint in the United States District Court for the Eastern District of Pennsylvania at No. 75-1858. The federal complaint is the same as the Lancaster County complaint at issue here including the federal claims. The United States District Court has refrained from deciding the case until the state courts had decided it.

Now, in effect, appellant has brought its case to this Court before it has been decided by the Federal courts below.

3. THE FEDERAL QUESTION IS NOT SUBSTANTIAL.

Appellant questions the right of the Tax Claim Bureau to proceed with a tax sale in the absence of personal notice to junior creditors whose security may be in jeopardy. Appellant cites *Mullane* v. *Central Hanover Bank and Trust Company*, 339 U.S. 306 (1950) for its argument that published notice to junior creditors in simply inadequate due process. Factually, *Mullane* pitted trust beneficiaries, who in effect were part owners of the trust and entitled to notice as owners, against a trustee bank who notified them only by publication. However, the names and addresses of the beneficiaries were readily at hand. Published notice alone was insufficient because the state interest in concluding trusts did not outweigh the ownership interest of the beneficiaries, and due process necessitated personal notice to the beneficiaries. Here, the facts are different. The owner of the property, Bernard

DiSabatino, received personal notice of the impending tax sale by certified mail, posting and publication. His lien creditors were notified by posting of the property and publication, but not personally, because the Pennsylvania legislature chose not to place such additional burdens on county government. It must be noted that the names and addresses of such lien creditors can be ascertained only by a thorough title search, and thus are not readily at hand.

Where there is a valid governmental interest at stake, due process tolerates less than actual, personal notice. *Boddie* v. *Connecticut*, 401 U.S. 371 (1979), *Phillips* v. *Commissioners*, 238 U.S. 583 (1931), *Hamilton* v. *United States*, 309 F. Supp. 468 (S.D.N.Y., 1969).

This Court decided that even junior federal liens could be properly divested by a Sheriff's sale in Pennsylvania without notice to the United States. *U.S.A.* v. *Brosnan*, 363 U.S. 237 (1960). Congress had to enact remedial legislation to protect junior federal liens; the Pennsylvania legislature has never seen fit to so protect private junior lien creditors in Pennsylvania.

Appellant later lost another of its mortgages in another Pennsylvania county and brought a similar mortgage divestiture case, *First Pennsylvania Bank N.A. v. Counties Investment Corporation*, Civil Action No. 76-3401, in the United States District Court for the Eastern District of Pennsylvania, challenging the constitutionality of the same provision of the Pennsylvania Real Estate Tax Sale Law as here. They lost. Squaring the Pennsylvania Real Estate Tax Sale Law with *Mullane*, Judge Newcomer stated:

> "Here, where the statutory scheme not only provides notice of tax delinquency, but also provides a mechanism for completely avoiding state action, this Court holds that due process is served. To hold otherwise, and to require mailed notice to mortgagees prior to a sale, would place an intractable burden on the taxing authorities. For each property, the record would have to be fully searched. The Court believes that such a title search, which is a normal concommittant of a mortgage transaction, is more properly done by the mortgagee, which can include its administrative costs in the mortgage agreement. There does not seem to be any reason, in light of the statutory protections built into the Tax Law, to shift this burden. Therefore, the plaintiff's attack on the Tax Sale Act as constitutionally deficient must fail."

Appellant should have taken care to protect its lien, for as Chief Justice Marshall put it, "It is the part of common prudence for all those that have interest in a thing to guard that interest by persons who are in a situation to protect it." *The Mary*, 9 Cranch. 126, 144. The burden of care should be on the lien creditor, not on government.

Chancellor Bucher, in the instant Lancaster County case, found that:

> "In this case a subscription to the local law review and a perusal of its tax sales notices would have been sufficient to appraise the plaintiff that his security was in jeopardy. Mortgagees have always had the obligation to look after their security with respect to insurance, depreciaton, waste, taxes and liens.

This Court recently decided a "notice" case in favor of the use of the mails. *Greene v. Lindsay*, 102 S. Ct. 1874 (1982). There, the names and addresses of tenants were readily at hand. Here, the names and addresses of lien creditors are not readily available, and local government must bear the substantial expense of conducting a full title search of the property of each delinquent taxpayer in order to discover junior lien

creditors before proceeding to sell such property. The valid, compelling necessity of Lancaster County to collect taxes efficiently must prevail over the interests of those junior creditors with liens on the real estate of tax delinquents.

4. THE DECREE OF THE SUPREME COURT OF PENNSYLVANIA RESTS ON AN ADEQUATE NON-FEDERAL BASIS.

Appellee filed, briefed and orally argued her Petition and Motion To Quash Appeal in the Supreme Court of Pennsylvania, presenting the ground that appellant's mortgage was discharged by operation of the Deficiency Judgment Act and thus, appellant lacked standing to appeal, for a claim under such a satisfied mortgage was moot.

Appellant had completely foreclosed on the three other DiSabatino mortgages, all securing the one and the same debt, before this Lancaster County appeal had even been brought to the Supreme Court of Pennsylvania. The docket entries of Lehigh County, Berks County and Delaware County, where the other three secured properties and mortgages were located,

reveal that appellant neglected to ever file its deficiency judgment petitions.

The Supreme Court of Pennsylvania, in interpreting the effect of the Deficiency Judgment Act, laid down the principle that unless a petition is filed to fix the fair market value of a property, sold by the Sheriff on a mortgage, within six months of the sale, the underlying debt was considered paid and discharged, even where the creditor still held other mortgages on other properties as security for the same debt. *Union Trust Company of New Castle* v. *Totino*, 353 Pa. 145, 44 A. 2d. 556 (1945).

The Deficiency Judgment Act treats the purchase of the mortgaged premises by an execution creditor at the Sheriff's sale as a payment of the debt due him, just as if he had then received the amount in cash. *Pennsylvania Company* v. *Scott*, 346 Pa. 13, 29 A. 2d. 328 (1942). Pennsylvania courts have held that the Deficiency Judgment Act is to be liberally construed to aid judgment debtors, and, in turn, persons indirectly affected by the judgment. *Western Flour Company* v.

Alosi, 216 Pa. Superior Ct. 341, 264 A. 2d 413 (1970), *Grimes* v. *Grimes*, 216 Pa. Superior Ct. 346, 264 A. 2d 410 (1970).

The effect of the Deficiency Judgment Act is to cause the judgment to be satisfied by the foreclosure and sale if the creditor fails to proceed according to the statute. *Kokosh* v. *F.S. & L.A.*, 118 P.L.J. 406, (1970). In the most recent Pennsylvania case on this issue, the principle was reiterated that where the mortgage holder buys the mortgaged premises in at the Sheriff's sale, but fails to file the petition under the Act to fix the value thereof, there is an irrebuttable presumption that the entire debt was paid in full. *Appeal of John McShain Charities, Inc.*, 48 Commonwealth Ct. 144, 409 A. 2d. 923 (1978).

As DiSabatino's debt, note and judgment to appellant were deemed paid, appellant's Lancaster County mortgage was discharged. Appellant thus has no constitutionally protected property or entitlement interest upon which it may base a challenge of constitutional deficiency in the notice provisions of the Pennsylvania

Real Estate Tax Sale Law, since its mortgage on the subject tract was discharged by operation of the Deficiency Judgment Act. Appellant's federal claim is moot.

CONCLUSION

Although the Supreme Court of the Commonwealth of Pennsylvania delivered no opinion, it appears that their judgment might well have rested upon non-federal grounds, and thus, this Court ought not to take jurisdiction. *Stembridge* v. *State of Georgia*, 343 U.S. 541 (1952). This Court is without jurisdiction when the question of the existence of an adequate state ground is debatable. *Bachtel* v. *Wilson*, 204 U.S. 36 (1907).

For all the foregoing reasons, appellee moves that this appeal be dismissed.

Respectfully submitted,

Heywood Eric Becker, Esq.
Maurice M. Green, Esq.

Attorneys for Appellee,
Della Becker

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FIRST PENNSYLVANIA BANK N.A.	:	CIVIL ACTION
v.	:	
LANCASTER COUNTY TAX CLAIM BUREAU	:	
&	:	
DELLA BECKER, et al.	:	NO. 75-1858

COMPLAINT

Count 1

1. This action arises under the Fifth and Fourteenth Amendments to the Constitution of the United States and the United States Code, Title 42, Sec. 1983 to redress the deprivation, under color of state statute, ordinance, regulation, custom or usage, of rights, privileges and immunities secured to plaintiff. The jurisdiction of this Court under Count 1 is invoked under United States Code, Title 28, Sec. 1331 and Sec. 1343 and the fact that the matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

. . .

(Paragraphs 2-19 deal with non-federal claims, are not here relevant, and have been omitted for brevity.)

. . .

20. The statute authorizing the Tax Sale of real estate without prior notice to a mortgagee or judgment

creditor Pennsylvania Real Estate Tax Sale Law, 72 P.S. Sec. 5860.101 *et seq.* and particularly sec. 602 thereof, 72 P.S. Sec. 5860.602, is unconstitutional as applied to the plaintiff herein, in that it authorizes the taking of property without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, Plaintiff prays . . .

Lancaster County Docket Entries

State of Pennsylvania, } ss.:
County of Lancaster, }

Among the Records *entered in the Court of Common Pleas in and for the County of Lancaster, in the Commonwealth of Pennsylvania, in* _____
Equity No. 16, Page 242
*Term*_____ *No.* _____ *is contained the following:*

Docket-Entries:

1. July 8, 1975 Praecipe filed issue Summons In Equity. (1 page)

2. July 11, 1975 I, Sheriff of Lancaster County, Pa. deputize the Sheriff of Bucks County, to execute this writ. Frederick B. Plowfield (2 pages)
August [illegible] 1975 Served Summons on Della Becker, defendant, by handing copy to Haywood Becker, son, at 40 Old York Road, New Hope, Penna.
So answers John P. Mitchell, Sheriff of Bucks County, Pa.

July 14, 1975 Served Summons on Lancaster County Tax Claim Bureau, defendant, by handing copy to Dorothy E. Hogarth, Director, at 45-47 North Duke Street, Lancaster, Penna.

July 14, 1975 Served Summons on County of Lancaster, defendant, by handing copy to Raymond Harr, Commissioner, at 51 East King Street, Lancaster, Penna.

July 14, 1975 Served Summons on School District of Lancaster, defendant, by handing copy to Dr. C. R. Walker, Superintendent, at 233 West Orange Street, Lancaster, Penna.

July 15, 1975 Served Summons on Millersville Borough, defendant, by handing copy to Janet Ruby, Borough Manager, at 25 East Charlotte Street, Millersville, Penna.
So answers Frederick B. Plowfield, Sheriff of Lancaster Co., Pa.

3. October 6, 1975 Enter Rule upon Plaintiff in the above captioned matter to file a Complaint.
Brubaker & Brubaker
By: Harry Sc. C. Garman
Attorney of Defendant, School District of Lancaster

AND NOW, October 6, 1975, a rule is entered as above directed.
Robert M. Reed, Prothonotary

4. October 9, 1975 Acceptance of service of the rule to file a Complaint filed. (1 page)

5. October 14, 1975 Complaint filed. (9 pages)

6. October 17, 1975 Praecipe filed entering the appearance of Brubaker and Brubaker for the defendant, School District of Lancaster. (1 page)

7. October 17, 1975 Acceptance of service of the plaintiff's complaint filed. (School District of Lancaster) (1 page)

8. October 17, 1975 Preliminary Objections filed by School District of Lancaster. (1 page)

9. October 21, 1975 Preliminary Objections filed by County of Lancaster. (1 page)

October 22, 1975 Affidavit of service of Plaintiff's Complaint filed. (1 page)

October 22, 1975 Affidavit of service of Preliminary Objections of School District of Lancaster filed.

[illegible] Affidavit of service of [illegible]

Lancaster County Docket Entries

State of Pennsylvania, }
County of Lancaster, } ss.:

Among the Records *entered in the Court of Common Pleas in and for the County of Lancaster, in the Commonwealth of Pennsylvania, in*
Equity No. 16, Page 242
Term, ____ *No.* ____ *is contained the following:*

Docket-Entries:

13. October 28, 1975 Answer of Lancaster County Tax Claim Bureau filed. (5 pages with Exhibits A,B,C & D)

14. October 31, 1975 Preliminary Objections filed by Borough of Millersville (1 page)

15. November 3, 1975 Affidavit of service of the Complaint filed. (2 pages)

16. November 5, 1975 Acceptance of service of Preliminary Objections filed on behalf of Lancaster County Tax Claim Bureau and County of Lancaster. (1 page)

17. November 5, 1975 Acceptance of service of Preliminary Objections filed on behalf of Della Becker. (1 page)

18. November 5, 1975 Acceptance of service of Preliminary Objections filed on behalf of First Pennsylvania Bank N.A. (1 page)

19. November 5, 1975 Acceptance of service of the answer of Lancaster County Tax Claim Bureau filed on behalf of First Pennsylvania Bank N.A. (1 page)

20. November 6, 1975 Acceptance of service of the Preliminary Objections on behalf of School District of Lancaster filed. (1 page)

21. November 6, 1975 Answer of Della Becker filed. (4 pages)

December 1, 1975 On Argument List - The Preliminary Objections by School District of Lancaster, County of Lancaster and Borough of Millersville are sustained.

22. January 2, 1976 Notice of Deposition filed. (1 page)

23. January 26, 1976 Defendant Della Becker's Written Interrogatories to Plaintiff and William C. Enselen, its Vice President filed. (4 pages)

24. January 28, 1976 Testimony of Haywood Eric Becker filed. (36 pages)

25. February 5, 1976 Plaintiff's Objections to defendant Della Becker's Interrogatories filed. (2 pages)

26. February 19, 1976 Petition for Consolidation of Trials presented to the Court and the Court enters Order allowing Equity No. 16, Page 194 and Equity 16, Page 242 be consolidated for trial. (6 pages)

27. February 25, 1976 Defendant Della Becker's answer to Petition for Consolidated Trials filed. (3 pages)

28. March 15, 1976 Plaintiff's Interrogatories to defendant Lancaster County Tax Claim Bureau filed. (9 pages)

29. March 16, 1976 Affidavit of service of the Petition and Order for Consolidated Trials filed. (4 pages)

March 23, 1976 Petition to Produce and Permit Inspection presented to the Court and the Court grants a rule returnable April 5, 1976 (4 pages)

[illegible] Plaintiff's Interro-
[illegible]

State of Pennsylvania, } ss.:
County of Lancaster, }

Among the Records *record in the Court of Common Pleas in and for the County of Lancaster, in the Commonwealth of Pennsylvania, to*
Equity No. 16, Page 242
Term, ____ No. ____ is contained the following:

Docket Entries:

April 5, 1976 On Argument List - Argued C.A.V.

12. April 5, 1976 Answer to Petition to Produce and Permit Inspection filed. (2 pages)

13. April 6, 1976 Answers of Plaintiff to Defendant Della Becker's Interrogatories filed. (2 pages)

14. April 7, 1976 Acceptance of service of the answer to Petition to Produce and Permit Inspection filed on behalf of Lancaster County Tax Claim Bureau. (1 page)

15. April 8, 1976 Acceptance of service of the answer to Petition to Produce and Permit Inspection filed on behalf of Della Becker. (1 page)

16. April 9, 1976 Motion to strike Della Becker's Objections to Plaintiff's Interrogatories filed. (2 pages)

17. April 15, 1976 Opinion filed. (3 pages)

AND NOW, April 15, 1976, for the foregoing reasons plaintiff's objections to Becker's interrogatories are overruled and dismissed and plaintiff is directed to answer all interrogatories and supply the papers and documents requested (or permit Becker or her attorney or agent to copy same), this order to be complied with within thirty days hereof.

By the Court:

Wilson Bucher, Judge

38. June 2, 1976 Supplementary answers of First Pennsylvania Bank to Defendant Della Becker's Interrogatories filed. (4 pages)

39. June 2, 1976 Notice of Deposition filed. (1 page)

June 7,1976 On Argument List - continued

40. June 11, 1976 Answer of Lancaster County Tax Claim Bureau to Plaintiff's Interrogatories filed. (4 pages with Exhibits A,B, C. & D.)

41. June 17, 1976 Acceptance of service of answer of Lancaster County Tax Claim Bureau filed on behalf of Della Becker. (1 page)

42. June 17, 1976 Acceptance of service of answer of Lancaster County Tax Claim Bureau filed on behalf of the plaintiff. (1 page)

June 21, 1976 On Equity List - continued

43. August 3, 1976 Notice of Depositions filed. (1 page)

44. August 27, 1976 Plaintiff's Response to Defendant Della Becker's Request for Production of Documents filed. (1 page)

45. September 2, 1976 Acceptance of service of Plaintiff's response to request for production of documents filed on behalf of the Lancaster County Tax Claim Bureau filed. (1 page)

46. September 22, 1976 Affidavit of service of the plaintiff's response to defendant Della Becker's Request for Production of Documents filed. (1 page)

State of Pennsylvania, } ss.:
County of Lancaster, }

Among the Records *entered in the Court of Common Pleas in and for the County of Lancaster, in the Commonwealth of Pennsylvania, in* _____
Equity No. 16, Page 242
Term, _____ *to contained the following:*

Docket-Entries:

48. October 20, 1976 Second Notice of Deposition filed. (1 page)

49. November 1, 1976 Acceptance of Service of Plaintiff's response to defendant Della Becker's request filed. (1 page)

50. November 1, 1976 Defendant, Della Becker's Reply to Plaintiff's Response filed. (1 page)

51. January 17, 1977 Notice of Depositions filed. (1 page)
February 22, 1977 On Equity List - continued

52. March 10,1977 Notice of Deposition filed. (1 page)
April 18, 1977 On Equity List
April 25, 1977 Hearing held before Judge Wilson Bucher - testimony to be transcribed and placed on the Argument List.

53. August 16, 1977 Testimony Lodged. (239 pages with Exhibits)

53). September 1, 1977 Testimony filed. (239 pages with Exhibits)

54. September 13, 1977 Stipulation of Counsel and Order Staying Tax Sale filed. (2 pages)

55. September 29, 1977 Plaintiff's Trial Brief filed. (38 pages)

56. October 17, 1977 Defendants Della Becker's Trial Brief filed. (31 pages)

57. October 17, 1977 Affidavit of service of Defendant Della Becker's Brief filed. (1 page)

58. October 19, 1977 Lancaster County Tax Claim Brief filed. (2 pages)

59. November 9, 1977 Stipulation filed. (2 pages with Exhibit-12 pages)

60. November 10, 1977 Decree Nisi filed. (10 pages)
AND NOW, November 10, 1977, plaintiff's complaint is dismissed.
If no exceptions are filed within ten days after notice of filing of this adjudication a final decree shall be entered by the Prothonotary on praecipe.
By the Chancellor:
Wilson Bucher

61. November 18, 1977 Plaintiff's Exceptions to Adjudication filed. (2 pages)

62. November 18, 1977 Certificate of service of Plaintiff's Exceptions to Adjudication filed. (1 page)

63. November 22, 1977 Della Becker's Exceptions to Statement of Facts filed (5 pages)

64. January 16, 1978 Plaintiff's Brief filed. (39 pages)

65. January 16, 1978 Affidavit of service of the plaintiff brief filed

66. January 24, 1978 Defendant Della Becker's Brief filed. (32 pages)

[illegible] 1978 Lancaster County Tax Claim Bureau's Brief filed

[illegible] filed

State of Pennsylvania, County of Lancaster, } ss.:

Among the Records *retained in the Court of Common Pleas in and for the County of Lancaster, in the Commonwealth of Pennsylvania, in* Equity No. 16, Page 242 *Term,* ____ *No.* ____ *is contained the following:*

Docket Entries:

69. March 20, 1978 Notice of Appeal to Superior Court with proof of service filed. (2 pages)

70. April 4, 1978 Amended Notice of Appeal to Commonwealth Court with proof of service filed. (2 pages)

May 30, 1978 Record sent to the Commonwealth Court.

August 15, 1979 Opinion filed by Commonwealth Court affirming Decree Nisi and Final decree—record to follow.

August 9, 1982 Notice of Appeal to the Supreme Court of the United States filed.

State of Pennsylvania, County of Lancaster, } ss:

I, Ethel M. Zook, Prothonotary of the Court of Common Pleas of Lancaster County, do certify that the within is a true and correct copy of the Docket Entries in Equity No. 16, Page 242 as the same remains filed and of record in said Court.

WITNESS my hand and seal of said Court at Lancaster, this 31st day of August, 19 82.

Ethel M. Zook

Prothonotary

Deputy Prothonotary

Fees:

IN THE SUPREME COURT OF PENNSYLVANIA
PHILADELPHIA DISTRICT

FIRST PENNSYLVANIA BANK N.A.	:	JANUARY TERM, 1979
Appellant	:	
	:	
v.	:	
	:	
LANCASTER COUNTY TAX CLAIM BUREAU	:	
	:	
&	:	
	:	
DELLA BECKER	:	
Appellees	:	NO. 461

PETITION AND MOTION TO QUASH APPEAL

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

Della Becker files this Petition to quash the appeal from the Order of the Commonwealth Court, filed by First Pennsylvania Bank N.A., for the following reasons:

1. The interest of appellant, First Pennsylvania Bank N.A., in the land formerly owned by Bernard DiSabatino was represented by a loan by appellant to DiSabatino on a loan agreement, under which appellant loaned to DiSabatino Construction Corporation, the sum of $1,100,000., appellant receiving as collateral security for said loan first mortgages, each in the sum of $1,100,000. on five separate parcels of ground, the parcel of ground subject of this suit being one of the said five parcels. The other four parcels of ground covered by the individual $1,100,000. mortgages are in Berks County, Pa., Lehigh County, Pa., New Castle, Delaware and Delaware County, Pa.

2. At the time of the trial of this case, held on April 25, 1977, the appellant had commenced foreclosure proceedings on each of the other four mortgages securing the $1,100,000. debt.

3. Some time after the trial of this matter, the mortgage foreclosures instituted by the appellant were finally completed by Sheriff sales under the foreclosure proceedings. Attached hereto are certified copies of the foreclosure proceedings instituted by appellant in Delaware County, Pa., marked Exhibit A; in Berks County, Pa., marked Exhibit B; and in Lehigh County, Pa., marked Exhibit C; said copy certified to by the Prothonotary of each court showing the amount of the judgment entered against Bernard A. DiSabatino and Joan K. DiSabatino, based on the $1,100,000. mortgage given by the DiSabatinos as collateral security for the $1,100,000. construction loan.

5. The docket entries disclose that in each foreclosure proceeding the First Pennsylvania Bank N.A. failed to file a petition to fix the fair market value of the real property sold within six months of the execution and delivery of the Sheriff's deed to the appellee, who became the purchaser at said foreclosure proceedings.

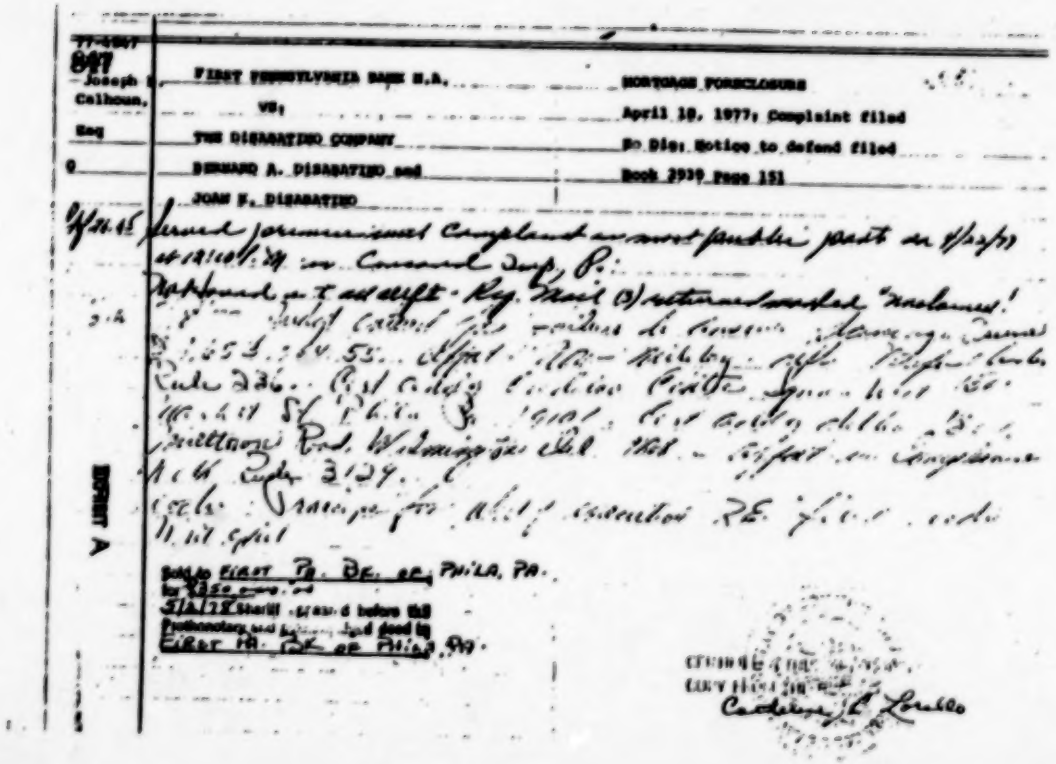
6. By reason of the failure of the appellant to follow the requirements of the Deficiency Judgment Act of July 16, 1941, P.L. 400, Sec. 1, *et seq.* (12 P.S. 2621.1 *et seq.*), as amended by the Judiciary and Judicial Procedure Act of July 9, 1976, P.L. 586, Sec. 1, *et seq.*, the debt of the obligors and sureties on the $1,100,000. has been satisfied and the sureties released from any liability thereon, by reason of the conclusive presumption that the property foreclosed was worth at least the full amount of the judgment.

7. The debt due to appellant having been conclusively presumed to have been paid by reason of said foreclosures, appellant has no further interest or claim under the mortgage held by it in Lancaster County and

therefore the claim of appellant that its rights have been prejudiced by the lower court's opinion is moot, it having received full payment of the debt due to it.

WHEREFORE, your petitioner respectfully prays that your Honorable Court quash the appeal filed by appellant herein.

/s/ Maurice M. Green
Attorney for Della Becker



77-3867
847
Joseph Calhoun, Esq
0
EXHIBIT A

FIRST PENNSYLVANIA BANK N.A.
vs.
THE DISABATINO COMPANY
BERNARD A. DISABATINO and
JOHN F. DISABATINO

MORTGAGE FORECLOSURE
April 18, 1977; Complaint filed
No Dlg: Notice to defend filed
Book 2939 Page 151

served same upon Bernard A. Disabatino at 1321 Cantrell St. Phila. Pa. by handing to Joseph Calhoun, Esq. Attorney for Defendant a true and attested copy of the Writ of Summons in Mortgage Foreclosure and making known to him the contents thereof.

Sheriff's Office, Philadelphia
Sheriff's Fees $ 9.00

SWORN TO AND SUBSCRIBED BEFORE ME THIS 19th DAY OF APRIL 1977

Caroline J. Lovallo

1426

MAY TERM 1977

October No.

Related

36

FIRST PENNSYLVANIA BANK N.A.

vs

BERNARD A. DIBARTINO and JOAN E. DIBARTINO

Pd	15.50	Complaint reinstated. Served the within CIVIL COMPLAINT IN MORTGAGE FORECLOSURE upon the within named defendants as follows: April 13, 1977, Sheriff certified copies thereof to BERNARD A. DIBARTINO and JOAN E. DIBARTINO, by registered mail, return receipt requested, to each of their last known addresses, to wit: 7301 Hilltop Road, Fogelsville, Pennsylvania 18051, and that the same were delivered to them on April 15, 1977 at 9:00 A.M. Sheriff further certified that he posted a certified copy thereof upon the most conspicuous part of the premises described herein, to wit: PARCEL OF LAND situate in MAXATAWNY TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, bounded and described as follows: BEGINNING at a point in the center line of College Boulevard, a corner of Lot No. 2 on the hereinafter mentioned Plan of Lots; thence along the center line of College Boulevard, South 77 degrees 30 minutes West 100 feet to a point, a corner of Lot No. 4 on the hereinafter mentioned Plan of Lots; thence along Lot No. 4 North 12 degrees 30 minutes West 200 feet to a point in the rear line of Lot No. 3 on the hereinafter mentioned Plan of Lots; thence along the rear line of Lot No. 3 North 77 degrees 30 minutes East 100 feet to a point, a corner of Lot No. 2 on the hereinafter mentioned Plan of Lots; thence along Lot No. 2 South 12 degrees 30 minutes East 200 feet to the point and place of BEGINNING. CONTAINING 20,000 square feet of land, more or less. BEING Lot No. 3 on Plan of Lots of Maxatawny Township, Berks County, Pennsylvania, dated July 22, 1977 and recorded in the Recorder of Deeds Office in and for Berks County, Pennsylvania, in Plan Book No. 1, Page 4. August 31, 1977, @ 11:00 A.M., Default Judgment entered in favor of the Plaintiff and against the Defendants, Bernard A. and Joan E. DiBartino, for failure to file an Answer to the Plaintiff's Complaint within twenty (20) days from the date of service thereof, and assess damages in the amount of $1,671,662.20, as per praecipe, filed. Entered to No. 36 May Term 1977 U.S. Robles Affidavit as to non-military service, filed. Robles Notice of entry of Judgment by Prothonotary, issued.
		WRIT OF EXECUTION (MORTGAGE FORECLOSURE) Entered As No. 1 November Term 1977 E.D.

April 7, 1977, Complaint in Action of Mortgage Foreclosure, ALL THAT CERTAIN piece, parcel or tract of land situate a short distance northeasterly from College Boulevard, in the Township of Maxatawny, County of Berks and State of Pennsylvania (for more particular description reference, Mortgage of Real Estate hereinafter set forth in the Complaint) recorded, Mortgage of Real Estate in Mortgage Book No. 1551, Page 353, with notice to defend, filed. Robles Certificate to Recorder of Deeds, issued. Robles Copy certified by Attorney, issued to Sheriff. July 13, 1977 Praecipe to reinstate Complaint, filed. Robles

Extract from the record of said Court.

Certified this 29th day of June 1978

JOHN R. ADAMS, Prothonotary

Deputy

100	First Pennsylvania Bank N.A. VS Bernard A. DiSabatino Joan K. DiSabatino	No. 36 May T 1977 A.D. Aug. 11, 1977, Judgment entered in favor of the plaintiff and against the defendants for the sum of $1,671.662.30, the defendants having failed to file an Answer to Plaintiff's Complaint within 20 days from the date of service thereof.

Extract from the record of said Coun
Certified this 29th day of Jan
JOHN R. ARNDT Prothonotary
Linda Shultz Deput

A13

Appellee's Petition and Motion to Quash Appeal

Eugene C. LaManna

1

FIRST PENNSYLVANIA BANK, N.A.

vs

BERNARD A. DiSABATINO and JOAN E. DiSABATINO, his wife

No. 100 August Term 1977 J.D.
No. 36 May Term 1977 A.D.

Affidavit of Non-Military, filed.
Certificate of Residence, filed.

October 11, 1977, Writ of Execution
MORTGAGE FORECLOSURE
Real Debt: $1,671,662.30
Interest From: March 22, 1977

COSTS		
Prothonotary	Paid	31.50
Judgment		3.00
Satisfaction (Boland)	Paid	3.00
Sheriff Kramer	Paid	24.93
Reading Eagle		138.[illegible]
Law Tel.		132.25
Sexton		162.[illegible]
Proth-		3.00
Auctioneer		4.60
Recorder		2.[illegible]
Pa. Realty Tax		576.00
Maxatawny Twp. Realty Tax		576.00
Sheriff Kramer		[illegible]
Poundage		133.0[illegible]
Total Paid:		$2,925.32

TO THE HONORABLE THE JUDGES OF THE COURT OF COMMON PLEAS OF BERKS COUNTY: In obedience to and by virtue of the within Writ, after due, fair and legal notice having been given of the time and place of sale, I did on the 9th. day of December, 1977, expose the premises within described with the appurtenances, to sale by public vendue or outcry, and sold the same

TO EUGENE C. LAMANNA, ESQ., Atty. for Plaintiff

For the sum of	$10.00
To balance costs	2,034.34
Total Paid	$2,044.34

PLEASE NOTE: The within Real Estate has been assigned to CARL A. LOBB, as per assignment set forth on Conditions of Sale. SO ANSWERS, John E. Kramer, Sheriff of Berks County, Pa. April 10, 1978

Sheriff's return Certificate filed. Sheriff's Deed to Carl A Lobb, 217 South Whitetail St. Kutztown, PA 19530 recorded in Deed Book 1733 Page 192

Extract from the record of said Court
Certified this 22 day of Dec. 1978
JOHN R. APPEL, Prothonotary
Deputy

708 April 1977

J.C.Lansha			First Pennsylvania Bank N.A. Centre Sq.East., 1500 Sansom St.,Phila.P		
	708		v		Mortgage Foreclosure
			Bernard A. DiSabatino and Joan E. DiSabatino(1)at R.D.#1,Box [illegible],Hillsborough,N.J.		
		3 00			
P.pd		12 50	Mar 31 1977	Complaint	
				Notice to defend	
				Copy cert and exit Rul Returnable 20 days	
			May 10	Affidavit of J.C.Lansha, Jr. as to address of dfts.	
			May 11	Shff's rtn complaint [illegible]	
			May 24	Shff's rtn complaint [illegible]	
pd		6 00	Jul 21	Praec for jdgt vs. dfts. for failure to answer	
				Jdgt entered vs. dfts. in amount of $1,133,250.26	
pd		10 00	Jul 21	Praec for execution Writ no.26 Sep. 77	
				Writ exit	
			Jul 22	Affidavit of Notice	
			Jul 21	Affidavit under Soldiers' and Sailors' Civil Relief Act	
Shff's cost		28[illegible]	Oct 26	Shff's rtn Writ "Now 2nd 23 1977 Dwel [illegible] Atty.James C. Lansha, Jr. Sale for First Penna. Bank N.A. for the sum of $1.00 Shff's costs $7,[illegible].0	
				Condition of Sale	
				Shff's Deed Acknowledged.	

EXHIBIT C

CERTIFIED FROM THE RECORD
THIS 14th DAY OF Feb A.D. 19 84

JOSEPH A. JOSEPH, CLERK OF COURTS

BY [signature]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FIRST PENNSYLVANIA BANK N.A.

v.

COUNTIES INVESTMENT CORP.

MEMORANDUM AND ORDER
(Filed January 4, 1978)

Newcomer, J. January 4, 1977 (sic)

Plaintiff has moved for summary judgment against all parties and defendant Counties Investment Corp. (Counties) has filed a cross-motion for summary judgment in its favor. For reasons set forth below, plaintiff's motion will be denied and judgment will be entered in favor of Counties on its motion.

Plaintiff, First Pennsylvania Bank, was the mortgagee of real property which was sold for delinquent school taxes in 1975. The tax liens were incurred in 1973, 1974 and 1975, while the mortgage was issued in 1974.[1] Therefore, the 1975 tax sale resulted in discharge of the mortgage because of the 1973 lien's seniority. 72 P.S. Sec. 5860.609. Under this provision however, school tax liens which accrued after the recordation of the mortgage in January 1974 were not senior. Plaintiff contends that the Real Estate Tax Sale Law, 72 P.S. Sec. 5860.609. Under this provision how-

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[1] The facts underlying these motions have been stipulated to by counsel. Pursuant to this stipulation, all counts but count 1 have been withdrawn.

ever, school tax liens which accrued after the recordation of the mortgage in January 1974 were not senior. Plaintiff contends that the Real Estate Tax Sale Law, 72 P.S. Sec. 5860.609 *et seq.*, is unconstitutional on due process grounds because it does not require notice to be mailed to the mortgagee, but only to the owner of record. The statute provides for notice by publication to lien creditors. 72 P.S. Sec. 5860.602. Furthermore, it requires all liens to be recorded. 72 P.S. Sec. 5860.307. The statute also gives the right of redemption to any lien creditor. 72 P.S. Sec. 5860.501. This section provides that if the delinquent taxes are paid by a creditor within one year after the taxes became liens, that lien creditor's judgment will become senior to all other liens, "stepping into the shoes" of the tax lien.

Defendant contends, and the Court agrees, that these procedures give mortgagees the process they are due. This Court recognizes that mortgagees have a significant property interest in a mortgage. However, the Pennsylvania statutory system provides a number of ways to protect this interest. First, before granting a mortgage, the prospective mortgagee can search the title. Such a search should reveal any unpaid taxes which have become liens. If the mortgagee still desires to enter into the transaction, in spite of these liens, it can require that the taxes be paid as a condition precedent to the mortgage. A more sure method of protecting the mortgage from discharge is to exercise its rights as a creditor to pay the delinquent taxes under the redemption provision. Although these options were available to the plaintiff, it apparently chose not to exercise them. The recordation of tax liens provides notice to the mortgagee that the mortgage lien will be junior and that a tax sale might discharge it. Failure to properly search title or to heed this warning does not in any way eliminate this notice; it exists whether or not the mortgagee wishes to avail itself of it. Coupled with this notice, however, is a further published notice at the time of sale. These two statutory mechanisms for notice fully apprise the mortgagee so that it may protect its financial property.

Plaintiff cites only two cases which require mailed notice to the mortgagee.[2] They both hold that a mortgagee is entitled to mailed notice when a municipality intends to demolish mortgaged property which has become a nuisance. That factual pattern differs greatly from the case at bar. In the situation of condemnation, the mortgagee has no prior notice, through recordation or otherwise, of the possibility of state action. Here, the noting of the lien on the docket is a public announcement that a tax sale may occur. Second, even if the mortgagee were notified of the possibility of condemnation, it could take no statutory steps to avoid it. Under the Tax Sale law, the mortgagee may prevent state action by exercising its right of redemption. In light of these important differences, this Court believes that the mailed notice required in those cases is not mandated here.

The seminal due process case on notice is *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). There, the Supreme Court held that all that the due process clause required was "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Here, where the statutory scheme not only provides notice of the tax delinquency, but also provides a mechanism for completely avoiding state action, this Court holds that due process is served. To hold otherwise, and to require mailed notice to mortgagees prior to a sale, would place an intractable burden on the taxing authorities. For each property, the record would have to be fully searched. The Court believes that such a title search, which is a normal concommittant of a

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[2] Pioneer Savings and Loan v. City of Cleveland, No. C69-922 (N.D. Ohio Sept. 21, 1970) (Lambros, J.); Pioneer Savings and Loan v. City of Cleveland, No. C69-922 (N.D. Ohio March 28, 1972) (Green, J.).

mortgage transaction, is more properly done by the mortgagee, which can include its administrative costs in the mortgage agreement. There does not seem to be any reason, in light of the statutory protections built into the Tax Sale Law, to shift this burden. Therefore, the plaintiff's attack on the Tax Sale Act as constitutionally deficient must fail. Defendant Counties' motion will be granted, and plaintiff's motion will be denied.

/s/ Clarence C. Newcomer
CLARENCE C. NEWCOMER
J.

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C., 20543

August 27, 1982

Heywood Eric Becker, Esq.
The Old York Road
New Hope, Pennsylvania 18938

Re: First Pennsylvania Bank, N.A. v.
Lancaster County Tax Claim Bureau
and Della Becker, No. 82-268

Dear Mr. Becker:

Your request of August 24, 1982, for an extension of time within which to file a motion to dismiss in the above-entitled case is granted, and the time has been extended to and including October 7, 1982.

Very truly yours,

/s/
Alexander L. Stevas
Clerk

cc: Richard M. Shusterman, Esq.
White and Williams
1234 Market Street, 16th Floor
Philadelphia, Pennsylvania 19107

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